



FREDERICK COUNTY PLANNING COMMISSION

August 9, 2017

TITLE: **CJ Miller Sketch Plan**

FILE NUMBER: **M-3172, AP 17417 (APFO N/A, FRO N/A)**

REQUEST: **Sketch Plan (Non-Binding Approval)**
The Applicant is requesting non-binding Sketch Plan approval to utilize 3 acres of land in the Agricultural zoning district in order to achieve the 25-acre minimum lot size for a future lot in the Mineral Mining zoning district.

PROJECT INFORMATION:

ADDRESS/LOCATION: Located on the west side of MD 85, Buckeystown Pike, south of Lime Kiln Road

TAX MAP/PARCEL: Map 95, Parcel 88

COMP. PLAN: Mineral Mining

ZONING: Mineral Mining

PLANNING REGION: Adamstown

WATER/SEWER: No Planned Service

APPLICANT/REPRESENTATIVES:

APPLICANT: CJ Miller

OWNER: 5703 Urbana Pike, LLC

SURVEYOR/ENGINEER: Harris Smariga & Associates

ARCHITECT: N/A

ATTORNEY: N/A

STAFF: Tim Goodfellow, Principal Planner II

ATTACHMENTS:

EXHIBIT 1- Sketch Plan

STAFF REPORT

ISSUE

The Applicant is requesting Sketch Plan approval for the addition of 3 acres of Agriculturally-zoned land to a parcel zoned Mineral Mining in order to meet the minimum 25-acre lot size in the Mineral Mining zoning district for a future subdivision. The Sketch Plan process is offered to Applicants so that they may receive the opinion of the Planning Commission before committing to the preparation of Preliminary or Combined Preliminary/Final subdivision plan.

In accordance with §1-16-59 of the Subdivision Regulations, the FcPc shall give its opinion regarding the sketch plan and may grant non-binding approval of the lot layout for the purpose of percolation testing only. The review of the sketch plan does not infer any special status on the plan, but is only to allow a subdivider to determine feasibility of the project prior to incurring costs for surveying and engineering.

§1-16-59 (H-I) of the Subdivision Regulations outlines the items that the FcPc should review on sketch plan applications;

(H) The Planning Commission will in general be reviewing the sketch plan with regard to the following points:

- (1) Interior street configuration;*
- (2) Entrance locations (both new streets and driveways);*
- (3) Traffic effect on existing and proposed roads;*
- (4) Type of water and sewage system;*
- (5) Feasibility of a subdivision in the area:*
 - (a) Total number and size of lots;*
 - (b) Effect of building in school district, school bus service;*
 - (c) Approximate lot layout, parkland, reserved areas.*
- (6) New techniques in land development.*
- (7) Preservation of environmental features.*
- (8) Conformance with the Comprehensive Plan.*

(I) The Commission will be reviewing at a minimum the general suitability of design with regards to topography, drainage, erosion and vertical alignment of streets, and preservation of environmentally sensitive areas.

BACKGROUND

The subject property is 48.4 acres in size and was granted Site Development Plan approval in November 2016 for development of a 33,750 square foot building for manufacturing and assembly of concrete block, and the storage of manufactured products (York Building Products). The applicant desires to subdivide the 48-acre parcel into 2 lots, one of which (lot 1) would be the location of the recently approved manufacturing facility and the other (lot 2) would be used for a future use associated with the adjacent Argos USA, LLC (formerly Greyrock, LLC) mining facility.

However, 1-19-10.400.7(B)(1) of the Zoning Ordinance requires a 25-acre minimum lot size in the Mineral Mining Zoning District. Section 1-19-10.400.7(B) of the Zoning Ordinance states that “*Development standards for the property with existing mineral mining zoning as of April 27, 2012.* (1) The minimum lot size for all permitted uses within the district will be 25 acres.”

Future proposed Lot 2, as conceptually designed, is only 22.03 acres in size. The Applicant proposes to utilize and add 3-acres of an adjacent Agriculturally-zoned parcel to create a 25-acre, Mineral Mining lot. The issue for the Planning Commission to decide is whether 3-acres of land zoned Agricultural can be used to satisfy the deficiency in the size of the Mineral Mining-zoned portion of the Applicant's proposed Lot 2.

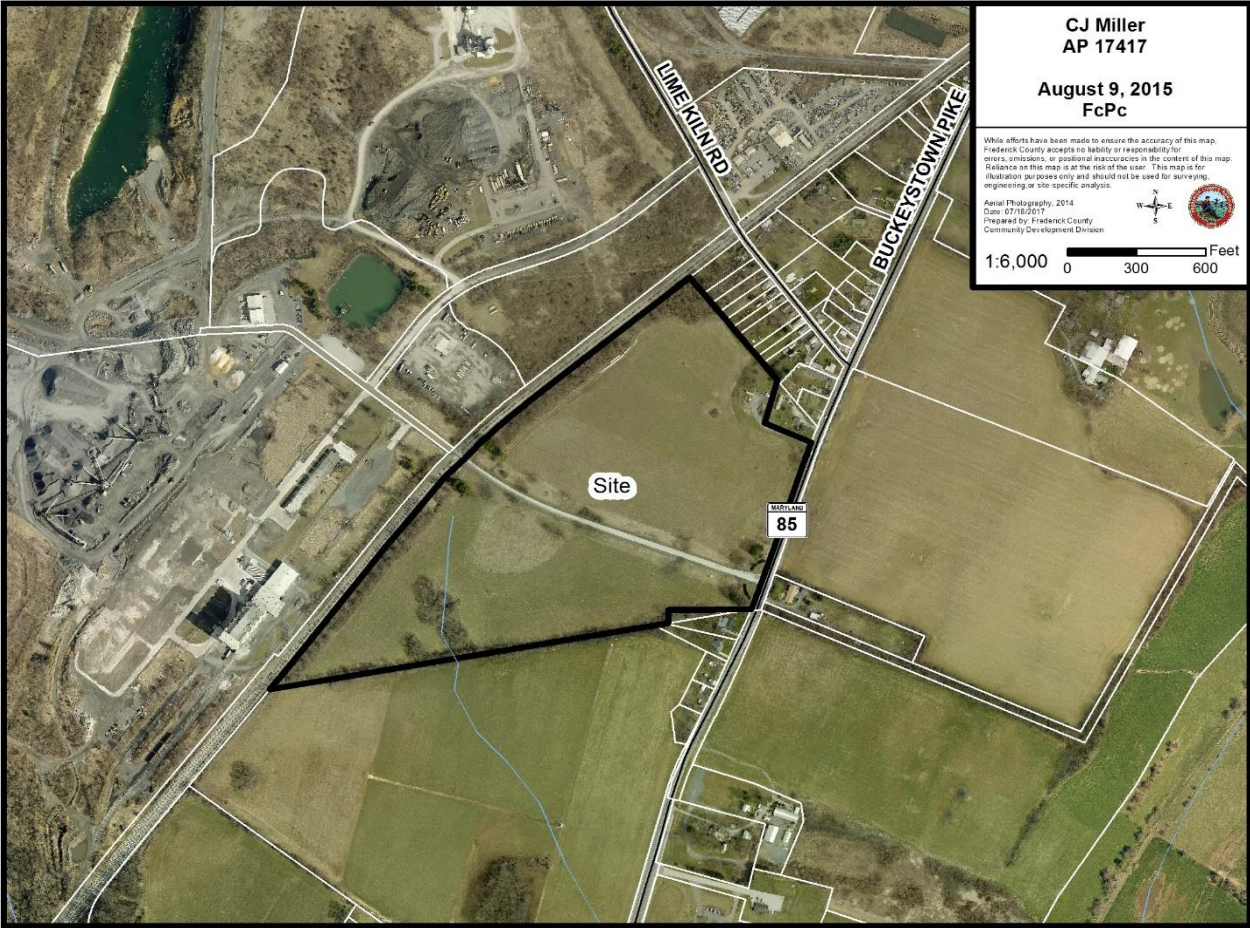
Any decision that the Planning Commission makes on the zoning district and property addition issue at this time is non-binding. The Applicant will submit a Preliminary Subdivision Plan or a Combined Preliminary/Final Plat to the Planning Commission in the future to create lots.

Existing Site Characteristics

The subject parcel is a flat agricultural field with a tree line adjacent to the railroad which forms the western property boundary, and a hedge row with trees on the southern property line that contains 12 specimen trees that will be retained, as identified in the forest stand delineation prepared for the November 2016 site plan. FEMA 100-year floodplain and flooding soils (LsA—Linside silt loam) are present in the southwest portion of the property, corresponding to the drainage of a tributary to Rocky Fountain Run. The LsA flooding soils on the site, as shown on the U.S. Department of Agriculture's National Resource Conservation Service (NRCS) Frederick County Soil Survey, is more extensive than that depicted on the Sketch Plan. At the future site plan stage of development, a soil analysis report must be submitted for approval to address the boundary of the flooding soil.

The required 25-foot floodplain buffer is shown on the Sketch Plan and the entire floodplain area is proposed for a future forest conservation easement. The Applicant has stated that no future uses or structures on proposed Lot 1 will be placed within the 3-acres of Agriculturally-zoned land, if the Planning Commission approves the current request.

DEVELOPMENT SITE AND SURROUNDINGS



CJ Miller
AP 17417

August 9, 2015
FcPc

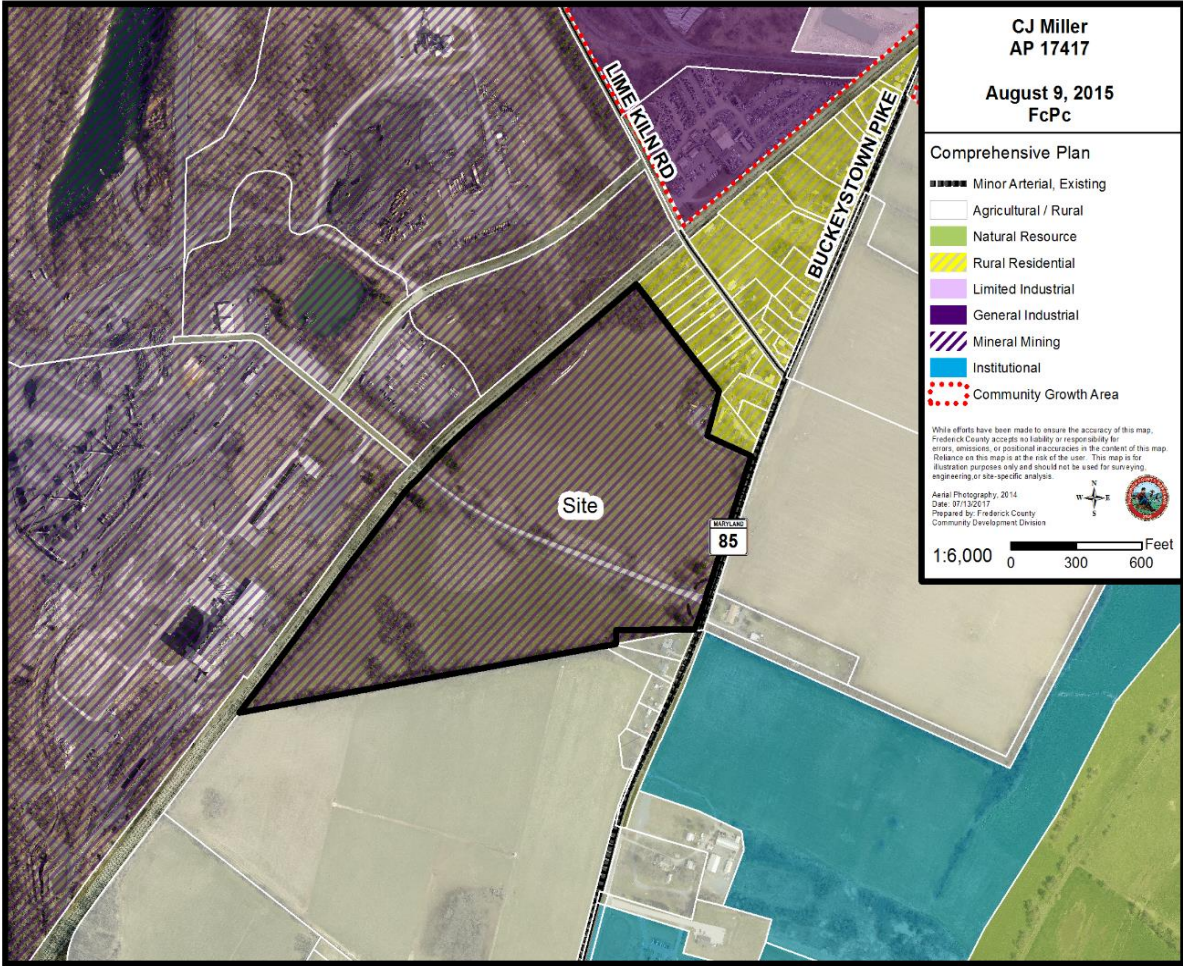
While efforts have been made to ensure the accuracy of this map, Frederick County accepts no liability or responsibility for errors, omissions, or positional inaccuracies in the content of this map. Reliance on this map is at the risk of the user. This map is for illustration purposes only and should not be used for surveying, engineering, or site specific analysis.

Aerial Photography, 2014
Date: 07/16/2017
Prepared by: Frederick County
Community Development Division

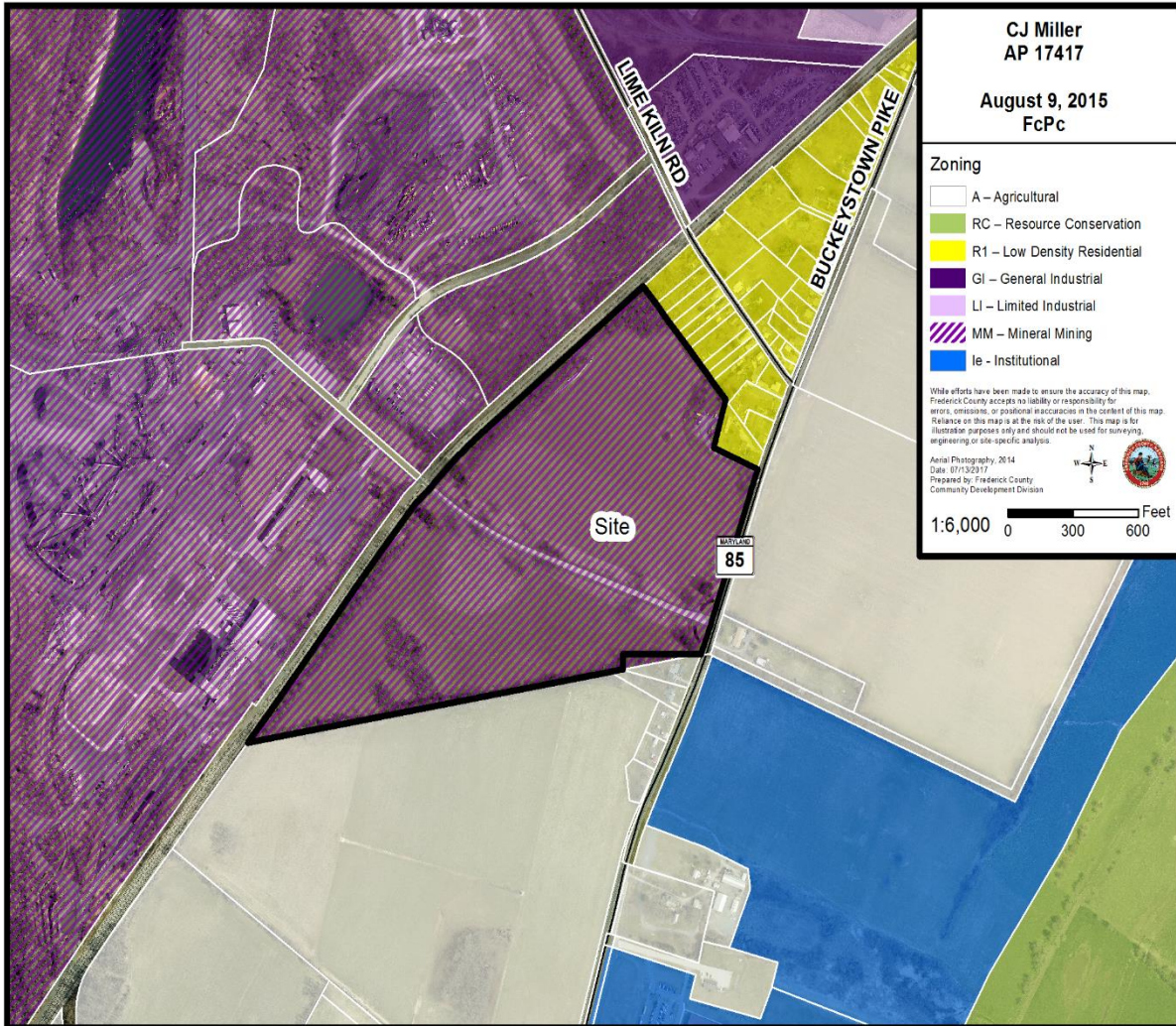


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COMPREHENSIVE PLAN



ZONING



ANALYSIS

A. § 1-16-59(H). Sketch Plan Review Criteria.

(1) Interior street configuration;

(2) Entrance locations (both new streets and driveways);

The property is bisected by an existing 24-ft. wide private roadway from MD 85, Buckeystown Pike, that serves as the main entrance into the quarry. This roadway will serve the approved York Building Products facility (future lot 1) and future uses on the property (future lot 2). Prior to approval of subdivision of the subject property, an easement that grants access to the adjacent quarry property must be recorded.

(3) Traffic effect on existing and proposed roads;

The York Building Products Site Plan was subject to the APFO and was required to contribute to escrow accounts for improvements to surrounding intersections that will be impacted by the development of the site (future lot 1). Future development on proposed lot 2 will be subject to the APFO and fair share contributions to existing escrow accounts for traffic impacts to nearby intersections.

(4) Type of water and sewage system;

The property is designated No Planned Service (NPS) on the Water and Sewerage Plan. The proposed lots will be served by private wells and individual septic systems.

(5) Feasibility of a subdivision in the area:

(a) Total number and size of lots;

(b) Effect of building in school district, school bus service;

(c) Approximate lot layout, parkland, reserved areas.

The Applicant seeks to create 2 lots from the 48+/- acre parcel, but cannot meet the 25-acre lot size in the Mineral Mining zoning district for proposed lot 2 without the addition of 3 acres from an adjacent parcel. However, the adjacent parcel to the south is zoned Agricultural, hence the request for Sketch Plan approval to permit 3 acres of Agricultural zoning to be used to satisfy the 25-acre Mineral Mining lot size requirement.

If the request is granted, the lots will meet the minimum lot widths and building/operation setbacks in accordance with §1-19-10.400.7 Mineral Mining Development Standards of the Zoning Ordinance.

If the request is granted, the proposed subdivision will be considered a minor, non-residential subdivision and be exempt from APFO schools testing. Parkland dedication is not required for minor subdivisions.

(6) New techniques in land development.

No new techniques are being utilized.

(7) Preservation of environmental features.

The 8.05-acre floodplain area on the property will be reforested and protected per the approved forest conservation easement recorded as part of the York Building Products Site Plan. If the current request is granted, the preservation of specimen trees, and the existing forest easement, as recorded, will apply to any future development on proposed Lot 2.

(8) Conformance with the Comprehensive Plan.

The 48 acres of Mineral Mining zoned property also has a Mineral Mining land use designation on the Comprehensive Plan. The Comprehensive Plan describes the Mineral Mining designation as follows: *This designation is primarily applied to areas under active mining operations and more recently has been applied to areas where future mining and associated activities may occur. The corresponding zoning district is Mineral Mining (MM), which is a floating zone that can only be applied as a piecemeal rezoning process. This zoning district also permits associated processing uses related to the mining, such as asphalt plants and concrete block manufacturing.*

The 3 acres of Ag zoned land proposed to be added for the purposes of meeting the minimum lot size of 25 acres has a comprehensive plan designation of Agricultural. The Agricultural land use designation is applied primarily to areas outside of Community Growth Areas that may include active farmland, fallow lands, and residential lots that have been developed in the Agricultural Zoning District.

The Agriculturally-zoned land will not be developed with Mineral Mining uses or structures, and will only be used to meet the minimum lot size regulations.

§ 1-16-59(I). Sketch Plan Review –Additional Criteria.

(I) The Commission will be reviewing at a minimum the general suitability of design with regards to topography, drainage, erosion and vertical alignment of streets, and preservation of environmentally sensitive areas.

The site is a flat agricultural field and protections have been placed on the sensitive environmental elements through an existing forest conservation easement on the FEMA 100-year floodplain. Specimen trees on site will be retained as described in the approved Forest Conservation Plan. Future site development plan review will address drainage and stormwater management.

B. OTHER SUBDIVISION REGULATION REQUIREMENTS

- 1. Land Requirements §1-16-217 (A):** *The land use pattern of the Comprehensive Plan and the district regulations of the zoning ordinance shall form the basic theme of the design pattern of the proposed subdivision.*

The subject property has a Mineral Mining land use designation on the Comprehensive Plan. The Comprehensive Plan describes the Mineral Mining designation as follows: *This designation is primarily applied to areas under active mining operations and more recently has been applied to areas where future mining and associated activities may occur. The corresponding zoning district is Mineral Mining (MM), which is a floating zone that can only be applied as a piecemeal rezoning process. This zoning district also permits associated processing uses related to the mining, such as asphalt plants and concrete block manufacturing.*

The 3 acres of Ag zoned land proposed to be added for the purposes of meeting the minimum lot size of 25 acres has a comprehensive plan designation of Agricultural. The Agricultural land use designation is applied primarily to areas outside of Community Growth Areas that may include active farmland, fallow lands, and residential lots that have been developed in the Agricultural Zoning District.

The Agriculturally-zoned land will not be developed with Mineral Mining uses or structures, and will only be used to meet the minimum lot size regulations.

- 2. Land Requirements §1-16-217 (B):** *The subdivision design shall take advantage of the uniqueness of the site reflected by topography, soils, the wooded areas, water bodies and the relationship to adjoining subdivisions and land uses, both proposed and existing.*

The site design takes advantage of the site topography, wooded areas, water bodies, and adjoining subdivisions, and land uses. The lots will be designed around the existing driveway, wells, and septic areas. No new impacts to environmental features is proposed.

- 4. Water and Sewer Facilities. Public Facilities §1-16-12 (C):** *The proposed subdivision shall be disapproved unless each building lot has been approved for individual and/or community sewerage and water facilities by the Health Department.*

The property has a water and sewer classification of No Planned Service and will utilize private wells and septic systems. The percolation tests for the updated septic area will be performed after the approval of this sketch plan.

Subdivision Regulation Requirements Findings/Conclusions: The project will meet all Subdivision Regulation requirements if the Planning Commission finds acceptable the utilization of 3 acres of land in the Agricultural zoning district in order to achieve the 25-acre minimum lot size for a future lot in the Mineral Mining zoning district.

C. OTHER APPLICABLE REGULATIONS

- 1. Stormwater Management – Chapter 1-15.2:** Stormwater management will be provided in accordance with the Maryland SWM Act of 2007. Stormwater management will be addressed with future plan submittals.
- 2. APFO – Chapter 1-20:** This minor subdivision is exempt from APFO requirements. APFO conditions and approvals related to the York Building Products Site Plan continue to apply.
- 3. Forest Resource Ordinance – Chapter 1-21:** FRO requirements for the mineral mining portion of this application have been provided as part of the York Building Products site plan process. A new FRO application must be submitted with the next phase of the subdivision process (Preliminary Plan or Combined Preliminary/Final Plat) to provide mitigation for the 3 acres being added to the mineral mining parcel.

Summary of Agency Comments

<i>Other Agency or Ordinance Requirements</i>	<i>Comment</i>
<i>Development Review Engineering (DRE):</i>	Conditional Approval. Driveway apron may require upgrading.
<i>Development Review Planning:</i>	Hold. Must meet all agency and FcPc comments and conditions.
<i>State Highway Administration (SHA):</i>	Approved.
<i>Div. of Utilities and Solid</i>	N/A

Other Agency or Ordinance Requirements	Comment
Waste Mngt. (DUSWM):	
Health Dept.	Conditional Approval: Percolation testing must be conducted.
Office of Life Safety	N/A
DPDR Traffic Engineering	Approved.
Historic Preservation	N/A
Forest Resource Ordinance	Conditional Approval: If request is granted, a revised FRO Plan is required

RECOMMENDATION

The Planning Commission must determine if 3 acres of land in the Agricultural zoning district can be used to satisfy the minimum lot size requirements of the Mineral Mining-zoned portion of the Applicant's proposed Lot 2 in accordance with §1-19-10.400.7 of the Zoning Ordinance.

Staff recommends that the Planning Commission give its opinion regarding the sketch plan. The Planning Commission may or may not grant non-binding approval of the lot layout for the purpose of percolation testing only. The review of the sketch plan does not infer any special status on the plan, but is only to allow a subdivider to determine feasibility of the project prior to incurring costs for surveying and engineering.

Should the Planning Commission grant non-binding approval of this application (M-3172, AP 17417), Staff recommends that the following items be added as conditions to the approval:

1. The Applicant shall submit, and have approved, a revised Forest Plan to mitigate for the 3 acres that will be added to the subject property. FRO mitigation must be provided prior to lot recordation.
2. In order to obtain subdivision approval, including approval of the use of 3 acres of Agriculturally zoned land to meet the minimum lot size in the Mineral Mining zoning district, the Applicant shall submit a Preliminary Plan or a Combined Preliminary/Final Plat to the Department of Development Review for subdivision review.
3. If the Planning Commission grants approval of the ability of the Applicant to utilize 3 acres of Agriculturally zoned land to meet the minimum lot size of 25 acres in the Mineral Mining Zone, the 3 acres of Agricultural land shall be utilized only for land uses consistent with the Agricultural zone and site plan approvals.
4. In conjunction with future site plan review, the Applicant shall submit for approval a soil analysis report that describes and delineates the LSA flooding soil or reflect the boundary of the LSA flooding soil as shown on the USDA Natural Resource Conservation Service's Frederick County Soil Survey.
5. The Applicant shall comply with all Staff and agency comments through the completion of the plan.

PLANNING COMMISSION ACTION

MOTION

I move that the Planning Commission **[grant non-binding approval with conditions as listed in the staff report] OR [not grant non-binding approval]** for application M-3172 (AP 17417) for the proposed CJ Miller Sketch Plan, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.

Exhibit No. 1

